

Remarks

This amendment is responsive to the official action mailed June 16, 2005. The number of claims remains within the number for which filing fees were previously paid. No new matter is presented.

Objection was made to claims 1-7 and claim 5 was considered to lack enabling support in the specification. Applicant has amended the claims to obviate the objections. Reconsideration of the grounds of rejection is requested in view of amendments made herein, and also because in each case the specification fully supports the subject matter claimed. The phrasing in the claims is found in the Specification, and is clear.

Re claims 1-7, the examiner questioned the phrase "to unity." This phrase is used in the context of a range of ratios. In claim 1, the ratio of the length of the grip to the maximum lateral dimension of the surface on the shower head from which jets of water exit, falls within a range. As originally claimed, the ratio falls between (or "ranges") from about 0.5 to unity. The term "unity" means - - one - -. Applicant has amended the claim to recite "0.5 to one."

The ratio of the length of the grip, to the span of the surface that emits the spray, is an aspect of the invention that permits a relatively large spray emitting area in a showerhead that is readily manipulated by a user who manually grasps the showerhead at the grip. A user of applicant's showerhead tends to apply a high proportion of the sprayed water efficiently onto the skin. A low proportion of the sprayed water is wasted by missing the user and draining away in the tub or shower stall. Applicant has found that this effect is achieved at a ratio of handle length to spray surface span between one to two and one to one, i.e., a proportion between 0.5 and one, or "unity."

To further obviate the objection to the term "unity," applicant proposes to amend the corresponding passage in the specification at paragraph [0026] to recite after the statement that the ratio ranges from 0.5 to a maximum of unity, the equivalent statement that the ratio is between 1:2 and 1:1. No new matter is presented. Claim 1 is definite, and claim 1 distinguishes from the prior art.

Re claim 5, the examiner questions where there is support in the specification for the phrases "normal to the surface" and "diameter of the surface." These phrases appear in paragraph [0016]. The surface to which reference is made is surface 3, shown in Fig. 2 and identified at paragraph [0022], lines 4-5 using the same language as the claim. Thus there is support for the subject matter claimed.

The terms "normal," "diameter" and "surface" are used in the Specification and claims for their ordinary meanings. The measurement taken "normal" to the surface is a measurement of the thickness or depth of the showerhead, namely a vertical measurement in the orientation shown in Fig. 1. The diameter of the surface is the diameter of the circle identified by numeral 3 in Fig. 2.

A person of ordinary skill can determine from a dictionary that a direction normal to a surface is perpendicular to the surface. This is the first definition of the term "normal" in Webster's New Collegiate Dictionary, 11th Ed., 2003, p. 846: . . .

normal . . . 1 : PERPENDICULAR; esp: perpendicular to a tangent at a point of tangency . . .

The claim states that the surface is the surface at which the water jets exit, and that surface is identified in the specification as surface 3. There is no possible controversy as to the meaning of the term "diameter." The diameter of the surface from which the water jets exit is the lateral dimension or span of the spraying surface, which in the embodiment shown is circular surface 3. These terms are clear and are used in the Specification with respect to the aspects claimed.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §112, both 1st and 2nd paragraphs, are requested. In the alternative, applicant requests that the examiner explain or expound on the record what it is about these terms that is considered unclear or not understood with respect to the embodiments of the invention that are shown and described.

Claims 1, 3, 4, 7 were rejected as anticipated by US 6,641,057 – Thomas et al. Claims 1-4 and 7 were rejected as anticipated by JP 2000037641 - Fumiko et al. (The Fumiko patent is cited in the action as EP 2000037641, but is a JP publication reference.) Claim 6 was rejected as obvious over a combination of Thomas and Fumiko plus DE 19942853 – Schiller et al., the latter being cited for an oval shape.

The claims have been amended to include in independent claim 1 the subject matter of claims 3 and 4, now canceled. Reconsideration and allowance of the claims are requested in view of this amendment. The prior art of record fails to meet or suggest the invention claimed as a whole.

Applicant's claim 1 recites a hand-held shower attachment to be fitted on the end of a flexible shower hose, i.e., a hand shower. The user of such a device manually aims the spray of the showerhead over the user's skin, being free to adjust the aim and to change the point from which the spray is emitted, within the ambit of the flexible hose. Applicant's claim 1 defines a ratio of the length of the manual grip to the lateral size or diameter of the surface emitting the water jets. The grip attaches to the shower hose at a union nut. The union nut at the end of the shower hose acts as part of the grip.

According to the Thomas reference, a shower head is associated with a length of articulated tubing arranged to be bent and twisted into a desired shape, namely the flexible shower "arm" 64. This element is designed and intended to assume and hold a sinuous shape. The Thomas specification at col. 6, lines 30-41, incorporates the description of the arm 64 found in US Pat. 5,865,378, wherein such an arm is used on the end of a fixed water pipe in a shower (i.e., on the end of a

rigid pipe protruding from the wall of a shower stall or the like). In Thomas '057, cited by the Examiner, the arm 64 is mounted on the end of a flexible shower hose.

The user of arm 64 in Thomas '057 can bend and twist the arm 64 to redirect the spray of water relative to the proximal point of attachment of arm 64 (presumably the end of a shower hose). This adjustment capability might be used when the showerhead assembly is fixed to a wall rail or other temporary mounting point, so as to set and hold the position of the spray. The user of Thomas '057 could possibly change the sinuous shape of arm 64 when aiming the showerhead manually, but the user also could re-aim the assembly manually regardless of the state of arm 64. In that case, the user might grasp arm 64 to manipulate the assembly and thereby vary the location and orientation of the spray.

Thomas' flexible arm 64 connects with a "stem arm" 46 identified at col. 4, lines 38-39. It is unclear whether the short stem arm 46 might be considered a grip. However, the stem arm 46 does not connect to the shower hose. It connects to the malleably bendable/twistable arm 64. Arm 64 is not a shower hose and instead is expressly taught to be a bendable/twistable element that stays in position after being bent so as to hold some orientation of the shower head relative to a remote point on arm 64.

Whether or not one deems to consider the short stem arm 46 of Thomas or the long malleable arm 64 as a grip, the Thomas shower head assembly does not meet applicant's claims as a whole. Either the ratios are wrong or the grip does not connect to the shower hose or both. Therefore, applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102. Thomas does not anticipate the invention claimed as a whole.

There is likewise no basis to assume that Thomas would render applicant's invention obvious. Applicant's invention relies on a grip of a particular length in relation to the span of the spray surface, extended by the union nut with the hose. By employing this ratio range, a large spray jet emission surface is provided in a showerhead that is readily manipulated and efficiently aimed. Less spray is wasted

by missing the user, while at the same time providing the possibility that the size of the spray emitting surface can be large.

Thomas takes quite a different approach from applicant. Thomas provides a bendable/twistable malleable arm 64 between the shower head and the point where the assembly is held, so as to determine by the arrangement of the arm where the shower head will be aimed. Whether the arm 64 is fixed at one end to a hand shower support, or whether arm 64 is held in the user's hand, there is no similarity to applicant's invention wherein the showerhead is manipulated by a short grip affixed to a flexible hose by a union at the end of the grip. Thomas does not teach or suggest applicant's invention claimed as a whole.

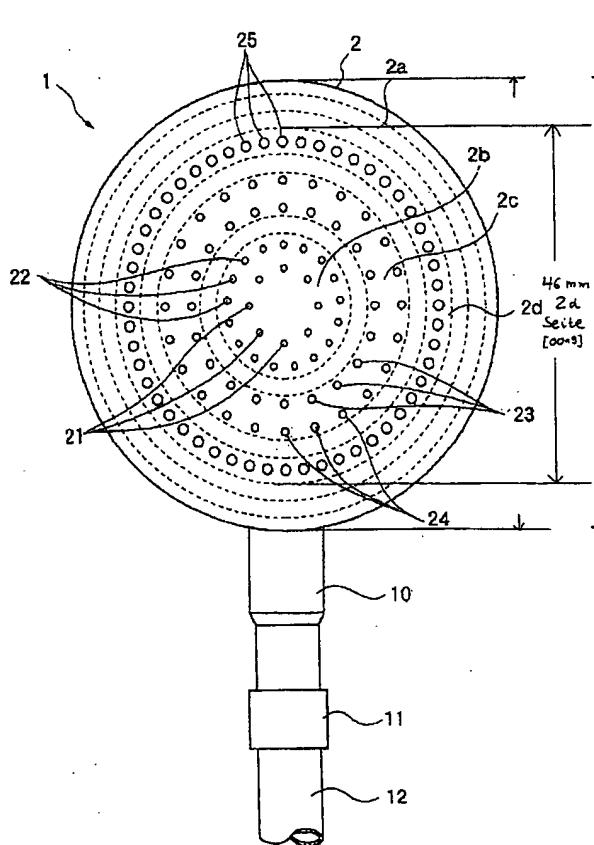
For these reasons, applicant requests that the rejection over Thomas under 35 U.S.C. §102 be withdrawn.

Claims 1-4 and 7 were rejected as anticipated by JP 2000037641. The Examiner states that the claimed parameters appear to be met by head 1, so-called "handle" 10 and connection to hose 12. Reconsideration is requested. The reference does not disclose or suggest the claimed invention.

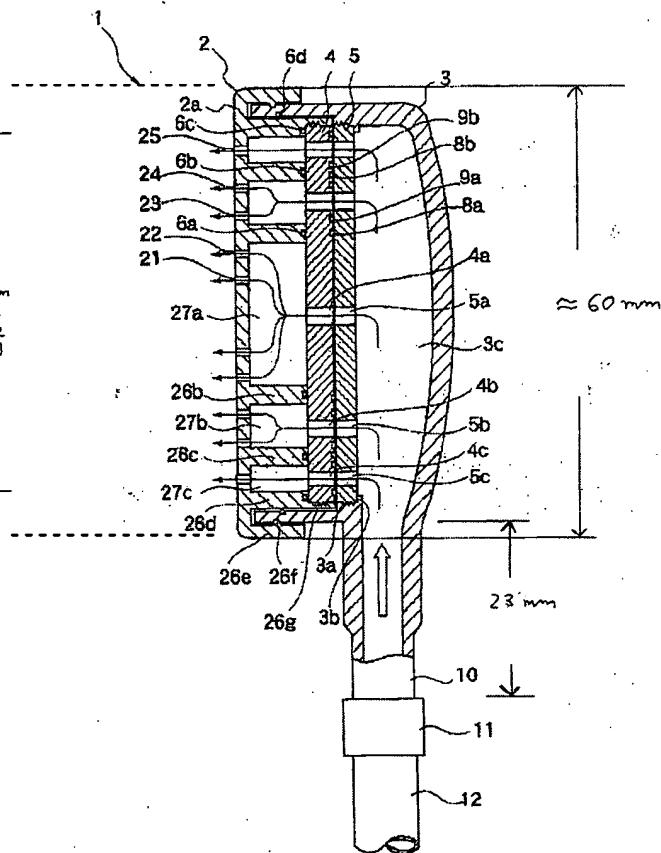
As to the relative sizes defined in claim 1, paragraph [0019] of the English translation of the reference states that the diameter 2d of the boundary regions is 46mm. This dimension at diameter 2d can be extrapolated to the outer diameter of the shower head. The outer diameter is about 60mm. The dimensions can also be applied to determine the length of element 10 and the thickness of the shower head (the thickness requiring further reference to Fig. 2).

These dimensions are shown in the following reproductions of Figs. 1 and 2 of JP 2000037641, which are placed side by side and annotated with the dimensions stated in the reference. It can be seen from these illustrations that element 10 cannot be deemed a grip as claimed by applicant, and furthermore that applicant's claimed parameters are not met or suggested by the prior art.

Extrapolating from the stated dimensions, the element 10 is 23mm long. This length is feasible for a nipple or pipe connecting stub. It is plainly too short to be considered a handle as suggested by the Examiner or a grip for manually manipulating the showerhead as claimed. The elements defined in applicant's claim 1 are not disclosed by the reference.



[Drawing 1]



[Drawing 2]

Applicant's claims define a hand-held shower attachment having a grip. A manual grip element as claimed has dimensions comparable to a human hand. The connecting element 10 in the JP reference, however, at 23 mm or about nine tenths of an inch, is comparable to the width of a finger. A one inch length cannot fairly be construed as a grip. A grip or handle would be comparable in size to the width of a human hand, which is on the order of 100mm (approximately four inches). A size

differential of several times is too large to conclude that element 10 is in fact a manual grip or handle. The prior art also would not lead a person of ordinary skill to consider a grip as claimed.

Apart from whether the element 10 is named a handle or grip or otherwise, claim 1 states that the ratio of the length of the claimed grip to the maximum lateral dimension of the showerhead is 0.5 to 1, whereas in the cited reference the ratio is less than that. Therefore, the prior art does not meet the claimed invention both because the prior art lacks a grip as claimed, and the prior art element 10 does not fall into the range of length ratios claimed.

The prior art JP patent does not anticipate the invention claimed. Furthermore, there is no reason from the objective teachings of the references to conclude that the differences are such that the invention claimed as a whole would have been obvious.

Claim 7 was rejected over a combination of Thomas and JP 2000037641 as above, plus DE 19942853. The Thomas and JP references fail to meet the invention for all the reasons discussed above. The DE reference adds an oval configuration to the showerhead. Nevertheless, even if the Thomas and JP references had disclosed the necessary grip and size ratios, which they do not, there is no incentive of record to justify combining the DE reference with the other two references. The DE reference likewise lacks a grip or handle, having at most a connecting nipple comparable to element 10 of the JP reference. This is borne out by the DE reference, for example in the “characterized in that” part of claim 1 (col. 3, lines 18-22) which says, “the shower head (1) is configured oblong and can be at least partially gripped by a hand and has an oblong water exit surface (10) for water nozzles (11, 12, 13). Inasmuch as the DE reference thus employs an oblong shape specifically to provide a shape for the user to grip directly. There is no basis to conclude that it would be obvious to provide a grip coupling with the shower hose, let alone a grip having the ratio of dimensions in the range that is defined by applicant’s claim 1.

The claims have been amended to more particularly and distinctly define the invention and to better distinguish over the prior art of record. The invention claimed as a whole is not disclosed in the prior art. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been known or obvious. Reconsideration and allowance are requested.

Respectfully submitted,

Date: Sept. 15, 2005



Stephan P. Gribok
Reg. No. 29,643
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103-4196
tel. 215-979-1283
fax. 215-979-1020
SPGRIBOK@DUANEMORRIS.COM

Docket Nos. D4700-380
P42416US